

REMARKS

Claims 1-9 are pending under examination. In the February 12, 2004 Action, the Examiner:

1. rejected claims 1 and 6-9 are under 35 U.S.C. § 103(a) as being unpatentable over Nitzsche et al. U.S. 5,868,793 ("Nitzsche") in view of Duncan U.S. 5,620,471 ("Duncan");

2. rejected claims 2-4 under 35 U.S.C. 103(a) as being unpatentable over Nitzsche in view of Duncan, and further in view of Kim et al. U.S. 6,047,210 ("Kim I"); and

3. rejected claims 2 and 5 under 35 U.S.C. 103(a) as being unpatentable over Nitsche in view of Duncan, and further in view of Kim et al. U.S. 6,041,251 ("Kim II).

We respectfully traverse the Examiner's rejections and respectfully request reconsideration in light of the following comments.

The Examiner correctly characterizes Nitsche, the primary reference, and concedes that it does not disclose the claimed invention in seeking to rely on the secondary reference Duncan (Action, p. 2). But Duncan does not cure the deficiencies of Nitzsche because Duncan does not teach or suggest "means for analyzing a stability of RR intervals and a stability of associated PR intervals" and/or "means, responsive to a detection of stable RR intervals and unstable PR intervals, for discriminating between atrial fibrillation with a fast ventricular rhythm and atrial fibrillation with a ventricular tachycardia ..." as required by claim 1 and claims 2-9 depending therefrom. Rather, Duncan refers to identifying whether or not there is a stability of RR intervals, and whether the AA rate is less than equal to or greater than the RR rate. See Duncan, col. 3, lines 43-60. There is disclosed, however, no test of PR interval stability and no means response to PR instability for discriminating between atrial fibrillations. In point of fact, Duncan

teaches away from applicants' disclosure employing an instability of PR intervals in teaching to use an average of A-A intervals in determining the A-A rate. (See Duncan col. 5, lines 23-32).

In view of the foregoing, we respectfully submit that claim 1, and claims 2-9 depending therefrom, are allowable over the art of record.

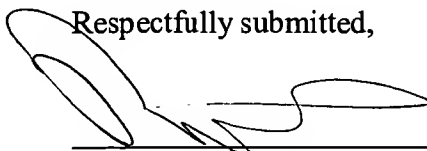
Regarding claims 6-9 depending from claim 1, we further respectfully traverse the Examiner's obvious rejection based on Duncan because Duncan does not teach or suggest "means for detecting a bi-tachycardia" as required by claim 6 and claims 7-9 depending from claim 6. A "bi-tachycardia" is described in applicants' specification at pp. 10-11, as condition involving both atrial fibrillation and ventricular tachycardia. In contrast, the Examiner's reliance on Duncan at col. 6, lines 31 et seq. is "to a comparison that distinguishes a sinus rhythm based on whether the atrial rate exceeds an unstable ventricular rate." We respectfully submit that this disclosure neither teaches nor suggests any means for detecting a bi-tachycardia as that term is used in applicants' specification and claims. Accordingly, claim 6 (and the claims 7-9 depending therefrom) are allowable for this additional reason.

We also respectfully submit that the Examiner's rejection for obviousness based on Nitzsche in view of Duncan could only have been made based on having first read applicants' specification and claims. Such a hindsight reconstruction of the art is of course improper, and should be withdrawn.

CONCLUSION

For the foregoing reasons, applicants respectfully submit that they have made a patentable contribution to the art. Reconsideration and allowance of this application in light of the foregoing are respectfully requested.

Respectfully submitted,



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